

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JOSMARIE ADARMES

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

Brief description of cause:
Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/28/2013

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 18 Main Street, Apt. 4, Schwenksville, PA 19473

Address of Defendant: 507 Prudential Rd., Horsham, PA 19044

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 01/28/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/28/2013

Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

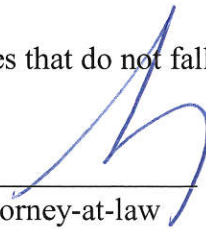
JOSMARIE ADARMES	:	
	:	CIVIL ACTION
v.	:	
	:	NO.
NCO FINANCIAL SYSTEMS, INC.	:	
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

01/28/2013
Date



Attorney-at-law

Plaintiff, Josmarie Adarmes
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditlaw.com
E-Mail Address

PLAINTIFF'S COMPLAINT

PARTIES

5. Plaintiff is a natural person residing in Schwenksville, Pennsylvania, 19473.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, Pennsylvania 19044.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all pertinent times hereto, Defendant was hired to collect a consumer debt and repeatedly contacted Plaintiff in its attempts to collect that debt.

12. Upon information and belief, the alleged debt, a Sprint bill, arose out of transactions, which were primarily for personal, family, or household purposes.

13. Beginning in May 2012, and continuing through January 2013, Defendant continuously contacted Plaintiff residential telephone seeking and demanding payment of an alleged debt.

14. During the relevant period, Defendant called Plaintiff, on average, one (1) to three (3) times a day.

1 15. Plaintiff knew it was Defendant contacting her because she had spoken with its
2 collectors on numerous occasions and they identified their company as "NCO Financial
3 Systems."

4 16. Plaintiff instructed Defendant to stop calling her several times, however, these
5 instructions were ignored and calls continued.

6 17. In one conversation, Defendant demanded that if Plaintiff did not make a
7 payment of up to \$250.00, Defendant would "take the next step against [her]." Plaintiff
8 responded that she was a single mother of two children and that she could not afford to make
9 payments on the alleged debt, to which Defendant's collector threatened that a lien would be
10 placed on her house and a "hold" placed on her bank account.

11 18. Upon information and belief, Defendant did not intend to take or could legally
12 take such actions at the time Defendant made those threats.

13 19. Upon information and belief, Defendant engaged in repetitive and continuous
14 contact with the intent of harassing Plaintiff into paying this debt.

15 20. Defendant's conduct was dishonest, deceitful, false, misleading, abusive and
16 harassing.

17 21. Defendant's collectors made threats with the intent to abuse, annoy, intimidate
18 and scare Plaintiff, so that she might chose to pay the alleged debt rather than be exposed to
19 more the same such treatment.

20 22. On occasions, Defendant called before 8:00 a.m. and after 9:00 p.m., which
21 Defendant knew was per se inconvenient and not authorized by Plaintiff.

22 23. Further, it was inconvenient for Plaintiff to receive calls in those instances where
23 Defendant would contact Plaintiff before 8:00 a.m. and after 9:00 p.m., because this was a time
24
25

1 when Plaintiff would be getting her children ready for school in the morning and putting them to
2 bed at night.

3 24. Most recently, Defendant contacted Plaintiff on January 4, 2013, at 8:01 a.m.

4 25. Finally, within five (5) days of its initial communication with Plaintiff, Defendant
5 failed to send written notification informing her of her rights to dispute the debt and/or request
6 verification of the debt.

7 26. To date, Plaintiff has yet to receive any written notification from Defendant
8 regarding his rights to dispute the debt and/or request verification of the debt.
9

10 **DEFENDANT VIOLATED THE**
FAIR DEBT COLLECTION PRACTICES ACT

11 **COUNT I**

12 27. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
13 §1692c(a)(1).
14

15 a. A debt collector violates §1692c(a)(1) of the FDCPA by communicating with
16 the consumer at any unusual time or place or a time or place known or which
17 should be known to be inconvenient to the consumer, including
18 communication between a debt collector and consumer prior to 8:00 a.m. or
19 after 9:00 p.m.

20 b. Here, Defendant violated §1692c(a)(1) of the FDCPA by placing numerous
21 collection calls to Plaintiff's residential telephone before 8:00 a.m. and after
22 9:00 p.m.
23
24
25

COUNT II

28. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

- a. A debt collector violates §1692d of the FDCPA by engaging in conduct of the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. A debt collector violates §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.
- c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by continuously calling Plaintiff's residential telephone on an average one (1) to three (3) times a day, with the intent to annoy, abuse, and harass Plaintiff.

COUNT III

29. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692e(5) of the FDCPA.

- a. A debt collector violates §1692e(5) by threatening to take any action that cannot legally be taken or that is not intended to be taken.
- b. Here, Defendant violated §1692e(5) of the FDCPA by threatening to take legal action against Plaintiff if she did make a payment on the alleged debt by putting a lien on her house and a hold on her bank account, lacking the intent

1 to take such action.

2 **COUNT IV**

3 30. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
4 §1692g.

5 a. A debt collector violates §1692g(a) of the FDCPA by failing to send to the
6 consumer, within five days after its initial communication with a consumer in
7 connection with the collection of a debt, a written notice containing: (1) the
8 amount of the debt; (2) the name of the creditor to whom the debt is owed;
9 (3) a statement that unless the consumer, within thirty days after receipt of
10 the notice, disputes the validity of the debt, or any portion thereof, the debt
11 will be assumed to be valid by the debt collector; (4) a statement that if the
12 consumer notifies the debt collector in writing within the thirty-day period
13 that the debt, or any portion thereof, is disputed, the debt collector will obtain
14 verification of the debt or a copy of a judgment against the consumer and a
15 copy of such verification or judgment will be mailed to the consumer by the
16 debt collector; and (5) a statement that, upon the consumer's written request
17 within the thirty-day period, the debt collector will provide the consumer
18 with the name and address of the original creditor, if different from the
19 current creditor.
20

21
22 b. Here, Defendant violated §1692g of the FDCPA by failing to send written
23 notification, within five (5) days after its initial communication with
24 Plaintiff, advising Plaintiff of her rights to dispute the debt or request
25

1 verification of the debt or providing her with the name of the original creditor
2 and the amount of the debt.

3 WHEREFORE, Plaintiff, JOSMARIE ADARMES, respectfully prays for a judgment as
4 follows:


- 5 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
6 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
7 15 U.S.C. § 1692k(a)(2)(A);
8 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
9 costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and
10 d. Any other relief deemed appropriate by this Honorable Court.
11

12 **DEMAND FOR JURY TRIAL**

13 PLEASE TAKE NOTICE that Plaintiff, JOSMARIE ADARMES, demands a jury trial
14 in this case.

15 RESPECTFULLY SUBMITTED,

16
17 Date: _____

18 By:  _____
19 CRAIG THOR KIMMEL
20 Attorney ID No. 57100
21 Kimmel & Silverman, P.C.
22 30 E. Butler Pike
23 Ambler, PA 19002
24 Phone: (215) 540-8888
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